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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,241	11/10/2005	Ralf Kurpjuweit	3926.171	2711
30448 7590 09/18/2007 AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER MALEVIC, DJURA	
			ART UNIT 2884	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,241

Applicant(s)

KURPUWEIT ET AL.

Examiner

Djura Malevic

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2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/25/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

In the present instance, claim 4 recites the broad recitation " an optical sensor", and the claim also recites "an infrared sensor" which is the narrower statement of the range/limitation. Appropriate correction is required.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the present instance, claim 10 recites the recitation " the sensor element is a standard element". The examiner is confused to what constitutes a standard element and as such, said "standard" is considered indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Rieger et al. (DE 298 20 742 U1).

With regards to claim 1, Rieger discloses a guiding device (2) for positioning at least one workpiece, comprising a workpiece position monitoring device (8 & 14), wherein the workpiece position monitoring device (8 & 14) is a sensor unit for contactless workpiece position monitoring.

With regards to claim 4, Rieger discloses the sensor unit is an optical sensor unit (Page 3, line 3).

With regards to claim 11, Rieger discloses the sensor unit is connected to an electronic data processing device and/or to a control device 28.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rieger in view of Toshihiro (JP Pub. Abstract 05185353).

With regards to claim 2, Rieger discloses the claimed invention according to claim 1, absent some degree of criticality the recitation of the workpiece position monitoring device (14) is additionally a centering and fixing unit is considered routine design choice involving only ordinary skill in the art. For example, Toshihiro teaches a centering and fixing contactless sensor. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Rieger to include the centering and fixing contactless sensor such as that taught by Toshihiro in order adjust for different workpieces.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rieger.

With regards to claim 3, Rieger discloses said guiding device is part of a machine tool, handling device or the like. Absent some degree of criticality the recitation of a pressing unit or of a bodysell-welding unit is considered routine design choice involving only ordinary skill in the art. In the present instance, it would have been obvious to a person of ordinary skill in the art to include the guiding device in a bodysell-welding or pressing unit in order to position the workpieces accurately.

Claims 5 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieger in view of Moore, Jr. et al. (US Patent 5,761,940).

With regards to claim 5, Rieger discloses the claimed invention according to claim 1 but fails to disclose wherein the sensor unit has a plurality of spaced-apart

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sensor elements. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of sensors, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, Moore teaches using several sensor-based control modules in order to improve the workpieces position alignment. Thus, it would also have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of sensors such as that taught by Moore in order to improve the aligning of the workpiece.

With regards to claim 6, Rieger modified discloses at least two sensor elements arranged in a common plane are provided for workpiece position detection (Page 9, Lines 7 –8).

With regards to claim 7, Rieger modified discloses the sensor element is designed as a nondestructively replaceable structural element (Page 5, Line 9 – Page 6, Line 9).

With regards to claim 8, Rieger modified discloses the sensor element in each case has an L-shaped workpiece contact side (22) with which a sensor detection line forms a triangle (Page 8, Lines 1-3, Figure 1).

With regards to claim 9, Rieger modified discloses the sensor element has at least one hardened workpiece contact face (26) (Page 5, Line 15).

With regards to claim 10, as best understood, Rieger discloses the sensor element is a standard element (Page 2, Last Line).

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Conclusion

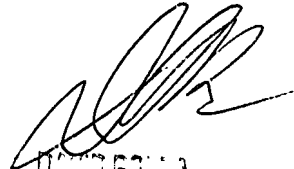
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djura Malevic whose telephone number is 571.272.5975. The examiner can normally be reached on Monday - Friday between 8:30am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djura Malevic
Patent Examiner
GAU 2884
571.272.5975


DAVID PORTA
SUPERVISOR, ELECTRONIC
TECHNOLOGY CENTER 2880